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Paper No. 20

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AUG 21 2006

OFFICE OF PETITIONS

In re Application of :
Marcello Quadrana :
Application No. 09/322,248 : ON PETITION
Filed: May 28, 1999 :
For: Food Grinder :

This is in response to the "REQUEST FOR REMAILING OF NOTICE OF ALLOWANCE AND CONDITIONAL PETITION UNDER 37 CFR 1.181 FOR WITHDRAWAL OF HOLDING OF ABANDONMENT" filed June 8, 2006. This paper signed by the attorney of record is also being treated as a request for change of correspondence address.

The above-identified application became abandoned for failure to timely pay the issue fee and publication fee within the three-month statutory period set in the Notice of Allowance and Fee(s) Due mailed April 25, 2005. A courtesy Notice of Abandonment was mailed on June 13, 2006.

Petitioner requests that the Office re-date and mail the Notice of Allowance (and Allowability) on the basis that the Notices mailed April 25, 2005 were mailed to the wrong address of paper No. 4. Petitioner further requests that the Office withdraw any holding of abandonment on the basis of the Office's failure to correctly mail the Notice of Allowance to the correspondence address filed with paper No. 5.

Petitioner's arguments have been considered, but not found persuasive. A review of the application record reveals that pursuant to the authorization of agent filed by sole inventor Marcello Quadrana on June 21, 2000 (Paper No. 4), all previous powers of attorney were revoked, patent agent Daniel O'Byrne was appointed to prosecute the application and the correspondence

address was changed to the address used to mail the Notices mailed April 25, 2005. Subsequently, on June 29, 2000, revoked attorney Albert Smith filed a request to withdraw and a change of correspondence address. This request was made by attorney Smith and was not signed by sole inventor Quadrana. Thus, given the prior revocation of power of attorney, attorney Smith's request to change the correspondence address was ineffective. Attorney Smith was no longer attorney of record for applicant, and thus, could not change the correspondence address. See 37 CFR § 1.33(a). Thus, the correspondence address remained that requested by sole inventor Quadrana in the paper filed June 21, 2000. The application record has been carefully reviewed. No prior request for change of correspondence address to the address cited in this request filed June 8, 2006, made by agent of record O'Byrne or inventor Quadrana is present in the record.

A review of the record reveals that the Notice of Allowance was mailed to the correspondence address of record properly in effect on the day of mailing. In this context, on April 25, 2005, the Notice of Allowance was mailed to the uncorrected correspondence address of record, but was not received by petitioner at the address he had intended to, but never did, make of record in the application.

In view thereof, abandonment for failure to timely respond to the Notice of Allowance mailed to the correspondence address of record was proper. Non-receipt of the Notice of Allowance is properly attributed to the failure to file a change of correspondence address by a proper party. Under the circumstances, withdrawal of the holding of abandonment is not warranted.

The petition under § 1.181 is DISMISSED.

Any request for reconsideration must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are not permitted. See 1.181(f).

Alternatively, applicants may seek revival under the provisions of 37 CFR 1.137. Such a request should include a cover letter entitled "Petition under 37 C.F.R. § 1.137(a)" or "Petition under 37 C.F.R. § 1.137(b)," as appropriate.

Further correspondence with respect to this decision should be addressed as follows:

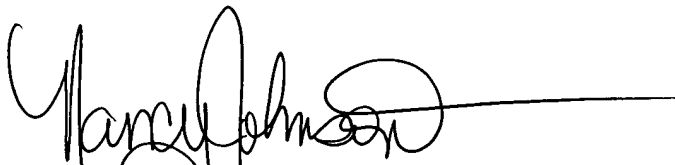
By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By fax: (571) 273-8300
 ATTN: Office of Petitions

By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The instant request for change of correspondence address is acknowledged and made of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions